DYING AND DEATH

كُلُّ نَفْسٍ ذَائِقَةُ الْمَوْتِ ثُمَّ إِلَيْهِ تُرْجَعُونَ

"Every soul shall 'taste' death, then you shall all be brought back to Him." Al-Quran



Part I – Preparing for Death

سُئِلَ رَسُولُ اللهِ (صلى الله عليه و آله و سلم) أَيُّ الْمُؤْمِنِينَ أَكْيَسُ؟ قَالَ: أَكْثَرُهُمْ ذِكْراً لِلْمَوْتِ وَ أَشَدُّهُمْ اسْتِعْدَاداً لَهُ.

The Messenger of Allah (peace be upon him and his family) was once asked, *"Who is the most clever from amongst the believers?"* He replied, *"The person who remembers death more than others, and the one who has prepared himself for it (more than others)."* *(Bihar al-Anwar, Volume 6, Page 126)*

Part I – Preparing for Death

قِيلَ لِأَمِيرِ الْمُؤْمِنِينَ (عَلَيْهِ السَّلاَمُ): مَا الاسْتِعْدَادُ لِلْمَوْتِ؟ فَقَالَ (عَلَيْهِ السَّلاَمُ) : أَدَاءُ الْفَرَائِضِ وَ اجْتِنَابُ الْمَحَارِمِ وَ الاشْتِمَالُ عَلَى الْمَكَارِمِ ثُمَّ لاَ يُبَالِي أَوَقَعَ عَلَى الْمَوْتُ أَوْ وَقَعَ الْمَوْتُ.

Someone once asked the Commander of the Faithful (peace be upon him), *"What is the best way to prepare for death?"* He (peace be upon him) said, *"One should fulfill the obligatory acts, abstain from the forbidden, and exhibit exalted morals. At that point, one should not be concerned whether he falls upon death or death falls upon him."* *(Bihar al-Anwar, Vol. 6, Pg. 126)*

Part I – Preparing for Death

How to Prepare for Death

1. Certain things obligatory upon the person himself who is dying;
2. Certain things obligatory upon the people around the one who is about to die.

Part I – Preparing for Death

The Dying Believer

1. Asking Allah for forgiveness for sins and for His mercy.
2. Noting down in writing any property or trusts which he has which belong to others – including loans.
3. Writing down any obligatory Islamic actions which have not been performed – Salat, Fasting, Khums, Zakat, (obligatory) Hajj, etc...

Part I – Preparing for Death

Those around the Dying Believer

1. Dying person MUST be laid on his/her back with the soles of the feet facing Qiblah.
2. Shahadatain and acknowledgement of the 12 Imams and the other tenets of the faith should be recited.
3. Recommended supplications to read to the dying believer.

Part I – Preparing for Death

4. It is recommended to move a person who is experiencing a painfully slow death to the place where he used to offer prayers, if it does not cause him too much discomfort.

5. For a person who is in the agony of death, it is recommended to recite the following: Surah Ya Sin (36), Surah as-Saffat (37), Surah al-Ahzab (33), Ayat al-Kursi, the 54th verse of Surah al-A'raf and the last three verses of Surah al-Baqarah – and as much of the Holy Qur'an as possible.

Part I – Preparing for Death

More information on:

- Detailed rites of the dying believer...
- Rules to be followed after death...
- Rules of the Washing of the Body (Ghusl), Shroud (Kafan), Prayers over the deceased (Salatul Mayyit) and Burial (Dafan)...
- Responsibilities of the surviving believers towards the deceased...
- The Islamic etiquette in consoling the grieving family...

Found in "RULES RELATING TO THE DECEASED"

Part II – The “Islamic” Will

كُتِبَ عَلَيْكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ إِنْ تَرَكَ خَيْرًا الْوَصِيَّةُ
لِلْوَالِدَيْنِ وَالأَقْرَبِينَ بِالْمَعْرُوفِ حَقًّا عَلَى الْمُتَّقِينَ

“Prescribed for you, when death approaches any of you and he leaves behind any property, is that he make a bequest for his parents and relatives, in an honorable manner, —an obligation on the God-wary.” *(Al-Quran, 2:180)*

Part II – The "Islamic" Will

What is the relationship between a person and his material possessions after his death?

Part II – The "Islamic" Will

1. He has full discretion (before death) to do with it as he sees fit;

2. He has partial discretion (before death) to do with it as he sees fit;

3. He has absolutely no control over his possessions.

Part II – The "Islamic" Will

Partial discretion means:

- A fixed percentage (1/3) of wealth can be kept for one's own specific uses.

- The remainder of estate must be divided between heirs according to the stipulated limits in the Shari'ah.

Part II – The "Islamic" Will

Why Write a Will?

- If we die without a valid will – termed an *Intestate*, your assets will be distributed in accordance with the laws of your province and divided as THE COURTS see fit.
- Those who have a right over us will lose their right - making us transgressors over them!

Part II – The "Islamic" Will

قال عَلِيٌّ (عليه السلام) مَنْ أَوْصَى وَ لَمْ يَحِفْ وَ لم يُضَارَّ كَانَ كَمَنْ تَصَدَّقَ فِي حَيَاتِهِ.

Imam 'Ali (peace be upon him) said, *"The reward of a person who writes a will in which there is no oppression or injustice and no one is put in a disadvantage or loss is just as a person who spent all of his wealth (in the way of Allah ﷻ) during his life."* *(Wasa'il al-Shi'a, Volume 19, Page 264)*

Part II – The "Islamic" Will

A Will is written to direct that after one's death:

1. A certain task should be completed.
2. A portion of his property is to be given in ownership to someone.
3. The ownership of his property be transferred to someone else.
4. His wealth be spent for charitable purposes.
5. He appoints someone as a guardian for his children and dependants.

Part II – The "Islamic" Will

In order to die and to remain on the path of Islam and as a follower of the 12th Imam, we need to ensure that even after death, we are still following the rules and dictates of Islam.

Part II – The "Islamic" Will

مَنْ مَاتَ بِغَيْرِ وَصِيَّةٍ مَاتَ مِيتَةً جَاهِلِيَّةٍ

"The person who dies without a will dies the death of the period of decadence (Jahiliyyah)."

(Wasa'il ash-Shia, Volume 19, Page 259)

Part II – The "Islamic" Will

لاَ يَنْبَغِي أَنْ يَبِيتَ إِلاَّ وَ وَصِيَّةٌ تَحْتَ رَأْسِهِ

"It is not advisable that a person goes to sleep except with his will under his head." *(Wasa'il ash-Shia, Volume 19, Page 259)*

Part II – The "Islamic" Will

Specific Issues of the Will

1. Personal Bank Accounts - in Western law, with the death of a spouse, bank accounts normally transfer over to the other spouse. This is not correct in Islamic law.

- In Islam, this money must be included in the estate total.
- Best for husband & wife to maintain separate accounts.

Part II – The "Islamic" Will

Specific Issues of the Will

2. Joint Bank Accounts - in Western law, with the death of a spouse, bank accounts normally transfer over to the other spouse. This is not correct in Islamic law.

- In Islam, this money must be divided 50/50 and half of it must be included in the estate total.

Part II – The "Islamic" Will

Specific Issues of the Will

3. Investments: Things such as RRSPs, GICs, Mutual Funds, Life-Insurance Policies, etc... must ALL be totaled and added to the total estate value before any expenses or inheritance is given out.

Part II – The "Islamic" Will

Specifics of the Will

4. House - Normally in the name of the couple. If one spouse dies, the other inherits the entire property - again, not allowed in Islamic law.

- In Islam, 50% of the value of the house is the surviving spouses while the other 50% is the property of the deceased which must be added to the estate.

- Other specifics related to property – please see *'Writing in Islamic Will'* by Sayyid Muhammad Rizvi for more details...

Part II – The "Islamic" Will

Appointing an Executor/Executrix

1. The executor/executrix will ensure that the provisions and wishes in your will are carried out as fully as possible.
2. They will be responsible for ensuing your will is followed to the letter – as long as it does not contravene Islamic law or the laws of the country.

Therefore, it is important to appoint someone whom you are sure has the spiritual capacity to carry out such an important task!

Part II – The "Islamic" Will

Who Inherits?

There are three degrees to inheritance which must be worked out in order. Spouse is not in this list as the Muslim spouse automatically inherits and NO ONE can prevent them from this right.

1. Your Muslim parents and Muslim children
2. Your Muslim grandparents and your Muslim siblings
3. Muslim Paternal and Maternal Uncles and Aunts.

If a person exists in the 1st group, no one from the subsequent groups can inherit!

Part II – The "Islamic" Will

Important Issues to Keep in Mind

1. A person's entire summation of wealth and other assets are referred to as the "Estate":
   1. 50% of a joint bank account;
   2. 50% of the value of a house
   3. All personal income – including stock, bonds, GICs, etc...
   4. Material possessions which are of any tangible value.

2. Before the "Estate" can be divided into its portions, any physical items which belonged SOLELY to the deceased and may have a 'cash value' must be given a value and that total must be included in the estate.

Part II – The "Islamic" Will

Important Issues to Keep in Mind

1. Before ANYTHING can be distributed amongst the heirs, the following must be paid:
   - ANY and ALL outstanding debts – legal as well as religious:
     - Khum, Zakat, Kaffaarah, Wajib Hajj, etc...
   - Obligatory portion of the funeral expenses.

2. The One-Third (if willed) must be taken out of the estate after the above amounts are used.
   - Missed prayers and fasting to be taken from this amount.

Part II – The "Islamic" Will

1. It is obligatory upon the eldest son to make up the prayers which his father missed - provided that the father did not leave them as a deliberate act of transgression.
2. If the son can not perform them, then he may hire someone else to perform them.
3. The missed prayers of the eldest son's mother are not obligatory upon him, though it is better if he performs them.
4. If a dying person makes a will that someone should be hired to offer his missed prayers, and that hired person performs them correctly, then the eldest son will be freed from his obligation.

Part II – The "Islamic" Will

Practical Examples

Example 1:

Husband dies leaving $120,000.00 – one wife, one son and one daughter – has written a will with his 1/3 right of usage.

Debts Funeral expenses, Hajj which he did not perform, credit card payments, etc...	$20,000.00
Personal: 1/3	$33,333.00
Wife	$8,333.00 Or $41,666.00 if Wife is given 1/3
Son	$38,889.00
Daughter	$19,444.00
TOTAL	$120,000.00

Part II – The "Islamic" Will

Why does the wife get "so less"?

1. The husband is responsible to provide for his wife during his lifetime – thus, any income or wealth she has is HER property. She can keep this and demand that HE provide her needs.

2. The woman *can* remarry – in which case, her new husband is responsible to provide for her and her needs;

3. If she can not remarry and has grown-up children, they are *religiously responsible* for her maintenance.

Part II – The "Islamic" Will

Other Inheritors

1. Daughter would be provided for by her husband – or if she is still a minor, then her brother or other family member.
2. The son has his own family to take care of – including, if applicable, his mother, sister(s), etc...

Therefore, if the deceased wants MORE to go to a specific family member, he has the 1/3 of his estate which he can give to those members.

Part II – The "Islamic" Will

Practical Examples

Example 2:

Husband dies leaving $120,000.00 – one wife, one son and one daughter – has NOT written a will with his 1/3 right of usage.

Debts Funeral expenses, Hajj which he did not perform, credit card payments, etc...	$20,000.00
Personal: 1/3	0
Wife	$12,500.00
Son	$58,333.33
Daughter	$29,166.67
TOTAL	$120,000.00

Part II – The "Islamic" Will

Practical Examples

Example 3:

Wife dies leaving $120,000.00 – husband, one son and one daughter – has written a will with her 1/3 right of usage.

Debts Funeral expenses, Hajj which she did not perform, credit card payments, etc…	$20,000.00
Personal : 1/3	$33,333.00
Husband	$16,667.00 Or $50,000.00 If given 1/3
Son	$33,333.00
Daughter	$16,667.00
TOTAL	$120,000.00

Part II – The "Islamic" Will

Practical Examples

Example 4:

Wife dies leaving $120,000.00 – husband, one son and one daughter – has written a will with her 1/3 right of usage.

Debts Funeral expenses, Hajj which she did not perform, credit card payments, etc…	$20,000.00
Personal: 1/3	0
Husband	$25,000.00
Son	$50,000.00
Daughter	$25,000.00
TOTAL	$120,000.00

Part II – The "Islamic" Will

The Islamic Will – Legal Implications

1. We should know that in Canada, inheritance to the spouse is NOT TAXED, but if children and others inherit, there IS A TAX associated with this.
   - *Best to consult your lawyer or local tax office for more details on these rules.*
2. There are "ways" around such issues...

Part III – Being Buried in an "Islamic" Cemetery

1. Of utmost importance to be buried in a Muslim cemetery for ALL Muslims – it is actually forbidden to be buried in a 'non-Muslim' cemetery – a grave yard in which you are surrounded by non-Muslims.

2. Must make every effort to either establish our own separate cemeteries or at least have a 'separate section' in the graveyard for our own deceased.

3. *Islamic Rule: It is not permitted to bury a Muslim in the graveyard of the non-Muslims, nor is it permissible to bury a non-Muslim in the graveyard of the Muslims.*

Part III – Being Buried in an "Islamic" Cemetery

Although some people may have reservations with becoming a "member" of a particular center, we need to realize that "membership has its privileges."

Being a 'member' entitles us to a Muslim burial:

1. It should be known that it is forbidden to deny ANY Muslim an Islamic burial - regardless if he/she is a member or not.

2. We should realize that it is expensive to bury a person and being a member helps to offset these costs - purchase of replacement burial plots and other expenses.

Part III – Being Buried in an "Islamic" Cemetery

Best to 'look around' for which community in your area has 'burial services' and to become a "paying member" of that community.

Part IV – Non-Muslim Family Members

1. LAST RITES, ETC...

- Explaining to family members certain aspects of life and death in Islam will help ease the tension of having a 'scene' at the time of the funeral.

- A correctly written and witnessed will WITH an executor helps to ensure that family members who are non-Muslims will respect our final rites and that they are carried out according to the Islamic laws by a scholar from the Community.

Part IV – Non-Muslim Family Members

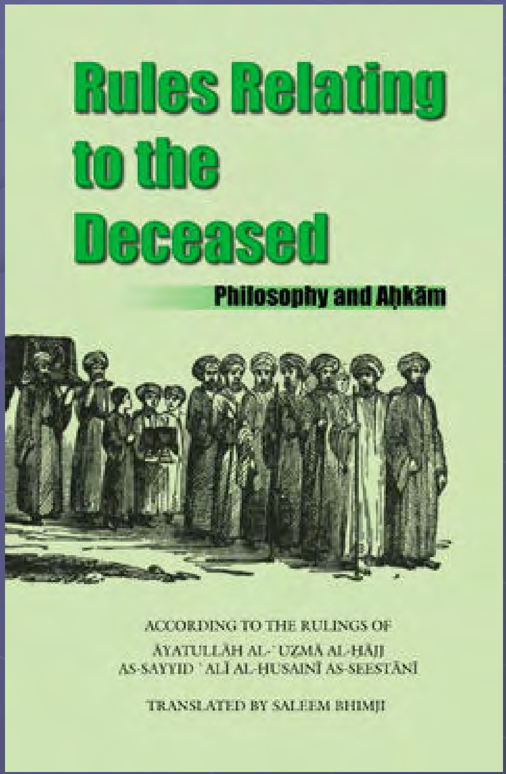
2. INHERITANCE:

- The general principle in Islam is that a Non-Muslim can not inherit from a Muslim. In such cases, the 'divisions' do not apply, but if wanted, a person can use his 1/3 to his non-Muslim family members.

3. CUSTODY:

- Laws may differ by province, however children can not be "inherited" or given to just anyone based on religion, creed, etc...

Suggested Reading...



RULES RELATING TO THE DECEASED

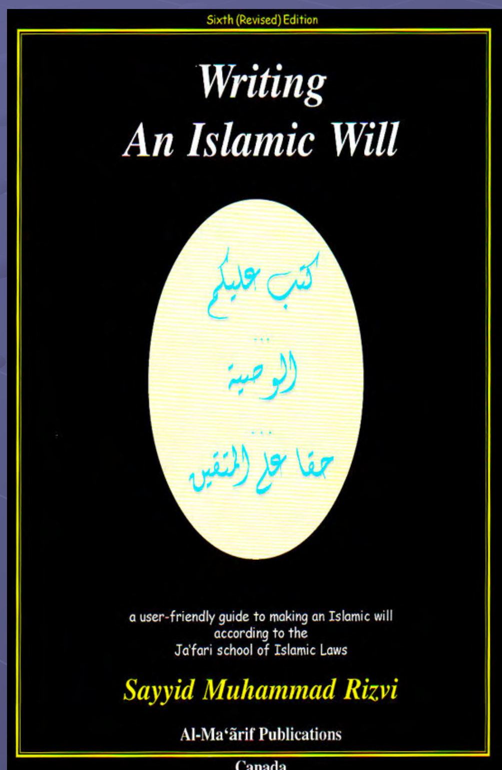
The practical rulings and philosophy behind many of the actions relating to the deceased according to the rulings of Ayatullah al-Uzma al-Hajj as-Sayyid `Ali al-Husaini as-Seestani

Translated by Saleem Bhimji

Available from www.al-haqq.com

For $8.00

Suggested Reading...



Writing an Islamic Will

A user-friendly guide to making an Islamic will according to the Ja'fari school of Islamic Laws with numerous examples and a sample will to fill in.

Sayyid Muhammad Rizvi

Available from www.al-haqq.com

For $6.00

Suggested Reading...



Manaazile Aakhirat

This work discusses the 'next life' and ends with a detailed list of actions which we can perform in this world to ensure our safety in the next...

Shaykh Abbas al-Qummi

Available from www.al-haqq.com

والحمد لله رب العالمين

And all praise belongs solely to Allah, the Lord of the Worlds…